

1 AN ACT

2 relating to the authority of certain retired peace officers and  
3 former reserve law enforcement officers to carry certain firearms.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter H, Chapter 411, Government Code, is  
6 amended by adding Section 411.1992 to read as follows:

7 Sec. 411.1992. FORMER RESERVE LAW ENFORCEMENT OFFICERS.

8 (a) A person who served as a reserve law enforcement officer, as  
9 defined by Section 1701.001, Occupations Code, not less than a  
10 total of 15 years with one or more state or local law enforcement  
11 agencies may apply for a license under this subchapter at any time.

12 (b) The applicant shall submit to the department two  
13 complete sets of legible and classifiable fingerprints and a sworn  
14 statement from the head of the law enforcement agency at which the  
15 applicant last served as a reserve law enforcement officer. A head  
16 of a law enforcement agency may not refuse to issue a statement  
17 under this subsection. If the applicant alleges that the statement  
18 is untrue, the department shall investigate the validity of the  
19 statement. The statement must include:

20 (1) the name and rank of the applicant;

21 (2) the status of the applicant;

22 (3) whether the applicant was accused of misconduct at  
23 any time during the applicant's term of service and the disposition  
24 of that accusation;

1           (4) a description of the physical and mental condition  
2 of the applicant;

3           (5) a list of the types of weapons the applicant  
4 demonstrated proficiency with during the applicant's term of  
5 service; and

6           (6) a recommendation from the agency head regarding  
7 the issuance of a license under this subchapter.

8           (c) The department may issue a license under this subchapter  
9 to an applicant under this section if the applicant was a reserve  
10 law enforcement officer for not less than a total of 15 years with  
11 one or more state or local law enforcement agencies and is  
12 physically and emotionally fit to possess a handgun.

13           (d) An applicant under this section must pay a fee of \$25 for  
14 a license issued under this subchapter.

15           (e) A former reserve law enforcement officer who obtains a  
16 license as provided by this section must maintain, for the category  
17 of weapon licensed, the proficiency required for the person under  
18 Section 1701.357, Occupations Code. The department or the local  
19 law enforcement agency at which the person last served as a reserve  
20 law enforcement officer shall allow the person an opportunity to  
21 annually demonstrate the required proficiency. The proficiency  
22 shall be reported to the department on application and renewal.

23           (f) A license issued under this section expires as provided  
24 by Section 411.183.

25           SECTION 2. The heading to Section 1701.357, Occupations  
26 Code, is amended to read as follows:

27           Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED

1 PEACE OFFICERS AND FEDERAL LAW ENFORCEMENT OFFICERS AND FOR FORMER  
2 RESERVE LAW ENFORCEMENT OFFICERS.

3 SECTION 3. Section 1701.357, Occupations Code, is amended  
4 by amending Subsections (a), (b), (c), and (d) and adding  
5 Subsections (b-1), (c-1), and (j) to read as follows:

6 (a) This section applies only to:

7 (1) a peace officer;

8 (2) a federal criminal investigator designated as a  
9 special investigator under Article 2.122, Code of Criminal  
10 Procedure; ~~and~~

11 (3) a qualified retired law enforcement officer who is  
12 entitled to carry a concealed firearm under 18 U.S.C. Section 926C  
13 and is not otherwise described by Subdivision (1) or (2); and

14 (4) a former reserve law enforcement officer who  
15 served in that capacity not less than a total of 15 years with one or  
16 more state or local law enforcement agencies.

17 (b) The head of a state or local law enforcement agency may  
18 allow an honorably retired peace officer an opportunity to  
19 demonstrate weapons proficiency if the retired officer provides to  
20 the agency a sworn affidavit stating that:

21 (1) the officer:

22 (A) honorably retired after not less than a total  
23 of 15 years of service as a commissioned officer with one or more  
24 state or local law enforcement agencies; or

25 (B) before completing 15 years of service as a  
26 commissioned officer with one or more state or local law  
27 enforcement agencies, separated from employment with the agency or

1 agencies and is a qualified retired law enforcement officer, as  
2 defined by 18 U.S.C. Section 926C;

3 (2) the officer's license as a commissioned officer  
4 was not revoked or suspended for any period during the officer's  
5 term of service as a commissioned officer; and

6 (3) the officer has no psychological or physical  
7 disability that would interfere with the officer's proper handling  
8 of a handgun.

9 (b-1) The head of a state or local law enforcement agency  
10 may allow a person who served as a reserve law enforcement officer  
11 as described by Subsection (a)(4) an opportunity to demonstrate  
12 weapons proficiency if the person provides to the agency a sworn  
13 affidavit stating that:

14 (1) the person served not less than a total of 15 years  
15 as a reserve law enforcement officer with one or more state or local  
16 law enforcement agencies;

17 (2) the person's appointment as a reserve law  
18 enforcement officer was not revoked or suspended for any period  
19 during the person's term of service; and

20 (3) the person has no psychological or physical  
21 disability that would interfere with the person's proper handling  
22 of a handgun.

23 (c) The agency shall establish written procedures for the  
24 issuance or denial of a certificate of proficiency under this  
25 section. The agency shall issue the certificate to a retired  
26 officer who satisfactorily demonstrates weapons proficiency under  
27 Subsection (b), provides proof that the officer is entitled to

1 receive a pension or annuity for service with a state or local law  
2 enforcement agency or is not entitled to receive a pension or  
3 annuity only because the law enforcement agency that employed the  
4 retired officer does not offer a pension or annuity to its retired  
5 employees, and satisfies the written procedures established by the  
6 agency. The agency shall issue the certificate to a person  
7 described by Subsection (a)(4) who satisfactorily demonstrates  
8 weapons proficiency under Subsection (b-1). The agency shall  
9 maintain records of any person [~~retired officer~~] who holds a  
10 certificate issued under this section.

11 (c-1) For purposes of Subsection (c) [~~this subsection~~],  
12 proof that a retired officer is entitled to receive a pension or  
13 annuity or is not entitled to receive a pension or annuity only  
14 because the agency that last employed the retired officer does not  
15 offer a pension or annuity may include a retired peace officer  
16 identification card issued under Subchapter H, Chapter 614,  
17 Government Code.

18 (d) A certificate issued under this section expires on the  
19 second anniversary of the date the certificate was issued. A  
20 person [~~retired officer~~] to whom this section applies may request  
21 an annual evaluation of weapons proficiency and issuance of a  
22 certificate of proficiency as needed to comply with applicable  
23 federal or other laws.

24 (j) On request of a person described by Subsection (a)(4)  
25 who holds a certificate of proficiency under this section, the head  
26 of the state or local law enforcement agency at which the person  
27 last served as a reserve law enforcement officer shall issue to the

1 person identification that indicates the person's status. An  
2 identification under this subsection must include a photograph of  
3 the person.

4 SECTION 4. Section 46.15(a), Penal Code, is amended to read  
5 as follows:

6 (a) Sections 46.02 and 46.03 do not apply to:

7 (1) peace officers or special investigators under  
8 Article 2.122, Code of Criminal Procedure, and neither section  
9 prohibits a peace officer or special investigator from carrying a  
10 weapon in this state, including in an establishment in this state  
11 serving the public, regardless of whether the peace officer or  
12 special investigator is engaged in the actual discharge of the  
13 officer's or investigator's duties while carrying the weapon;

14 (2) parole officers and neither section prohibits an  
15 officer from carrying a weapon in this state if the officer is:

16 (A) engaged in the actual discharge of the  
17 officer's duties while carrying the weapon; and

18 (B) in compliance with policies and procedures  
19 adopted by the Texas Department of Criminal Justice regarding the  
20 possession of a weapon by an officer while on duty;

21 (3) community supervision and corrections department  
22 officers appointed or employed under Section 76.004, Government  
23 Code, and neither section prohibits an officer from carrying a  
24 weapon in this state if the officer is:

25 (A) engaged in the actual discharge of the  
26 officer's duties while carrying the weapon; and

27 (B) authorized to carry a weapon under Section

1 76.0051, Government Code;

2 (4) an active judicial officer as defined by Section  
3 411.201, Government Code, who is licensed to carry a concealed  
4 handgun under Subchapter H, Chapter 411, Government Code;

5 (5) an honorably retired peace officer, qualified  
6 retired law enforcement officer, [~~or~~] federal criminal  
7 investigator, or former reserve law enforcement officer who holds a  
8 certificate of proficiency issued under Section 1701.357,  
9 Occupations Code, and is carrying a photo identification that is  
10 issued by a federal, state, or local law enforcement agency, as  
11 applicable, and that [+

12 [~~(A)~~] verifies that the officer is:

13 (A) an honorably retired peace officer;

14 (B) a qualified retired law enforcement officer;

15 (C) a federal criminal investigator; or

16 (D) a former reserve law enforcement officer who

17 has served in that capacity not less than a total of 15 years with

18 one or more state or local law enforcement agencies [~~after not less~~

19 ~~than 15 years of service as a commissioned officer, and~~

20 [~~(B) is issued by a state or local law~~  
21 ~~enforcement agency~~];

22 (6) a district attorney, criminal district attorney,  
23 county attorney, or municipal attorney who is licensed to carry a  
24 concealed handgun under Subchapter H, Chapter 411, Government Code;

25 (7) an assistant district attorney, assistant  
26 criminal district attorney, or assistant county attorney who is  
27 licensed to carry a concealed handgun under Subchapter H, Chapter

1 411, Government Code;

2 (8) a bailiff designated by an active judicial officer  
3 as defined by Section 411.201, Government Code, who is:

4 (A) licensed to carry a concealed handgun under  
5 Chapter 411, Government Code; and

6 (B) engaged in escorting the judicial officer; or

7 (9) a juvenile probation officer who is authorized to  
8 carry a firearm under Section 142.006, Human Resources Code.

9 SECTION 5. The change in law made by this Act to Section  
10 46.15, Penal Code, applies only to an offense committed on or after  
11 the effective date of this Act. An offense committed before the  
12 effective date of this Act is governed by the law in effect on the  
13 date the offense was committed, and the former law is continued in  
14 effect for that purpose. For purposes of this section, an offense  
15 was committed before the effective date of this Act if any element  
16 of the offense occurred before that date.

17 SECTION 6. This Act takes effect September 1, 2013.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3370 was passed by the House on May 7, 2013, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3370 on May 23, 2013, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3370 was passed by the Senate, with amendments, on May 21, 2013, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor